

09-3466  
LOCALLY ASSESSED PROPERTY  
SIGNED 07-29-2010

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2

Petitioners,

v.

BOARD OF EQUALIZATION OF RICH  
COUNTY, UTAH,

Respondent.

**INITIAL HEARING ORDER**

Appeal No. 09-3466

Parcel No. #####- 1  
#####- 2  
#####- 3  
#####- 4

Tax Type: Property Tax/Locally Assessed  
Tax Year: 2009

Judge: Dixon Pignanelli

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**Presiding:**

D'Arcy Dixon Pignanelli, Commissioner

**Appearances:**

For Petitioner: PETITIONER 1, Pro Se, by phone

For Respondent: RESPONDENT REP., Assessor, Rich County, by phone

STATEMENT OF THE CASE

Petitioner (the "Property Owner") is appealing the assessed value established for the subject properties for the lien date January 1, 2009 by the Rich County Board of Equalization (BOE). The County Assessor set the value of the four subject parcels at \$\$\$\$\$. The County BOE reduced the value of both parcels to \$\$\$\$\$.

Pursuant to Utah Code Annotated Sec. 59-1-502.5 an Initial Hearing was held on April 22, 2010 in the Commission Office in Salt ( X ) City with the Petitioner and Respondent participating by phone. The Property Owner requested the value of all four parcels be lowered to \$\$\$\$\$. The representative for Respondent (the "County") requested the value set by the County BOE of \$\$\$\$\$ be sustained.

### APPLICABLE LAW

All tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law. (Utah Code Ann. Sec. 59-2-103 (1).)

“Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. (Utah Code Ann. 59-2-102(12).)

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board. . . . (4) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. *Nelson v. Bd. of Equalization of Salt ( X ) County*, 943 P.2d 1354 (Utah 1997). See also Utah Code Sec. 59-1-1417 which provides, “In a proceeding before the commission, the burden of proof is on the petitioner . . .”

### DISCUSSION

The four subject properties are unimproved lots in CITY, Rich County, Utah. Parcels #####- 1 (#####- 1), #####- 2 (#####- 2), and #####- 3 (#####- 3) are in the SUBDIVISION at ADDRESS 1, and ADDRESS 2, respectively, while Parcel #####- 4 (#####- 4) is in the SUBDIVISION 2 at ADDRESS 3. The subject properties are in a large development known as DEVELOPMENT near ( PORTION REMOVED ).

In support of a lower value the Property Owner provided Multiple Listing Service (MLS) sheets with four comparable sales. The Comps ranged in lot size for 0.25 to 0.54 and sales prices from \$\$\$\$\$ to \$\$\$\$\$; however, the MLS sheets did not provide the sales dates. The Assessor

stated all four comparables had sold in 2009. The Property Owner did not dispute this. In addition to the four sales comparables, the Property Owner stated parcels #####- 1, #####- 2, #####- 3 were on a cliff, which provided a good view of the ( X ), but to build a cabin would require steel or concrete pylons, because 70% of a cabin could be over the cliff.

The Property Owner wrote in his November 11, 2009 letter to the Commission that in the last two years he has been trying to sell lots #####- 1, #####- 2 and #####- 3. He noted the selling price started out at \$\$\$\$ and has dropped to \$\$\$\$ and, that to date, he has not received any serious offers.

The Assessor provided appraisals for all four subject parcels. Each appraisal gives a statement of value as of the lien date January 1, 2009 of \$\$\$\$ for all subject parcels. The Assessor used the same six comparable sales for all four appraisals indicating they were similar to all the subject parcels in terms of size, location, good view, acreage, and sloping topography. The appraisals state the subject parcels all have water, electricity and sewer available, but not gas. Although subject parcel #####- 4 is in the SUBDIVISION 2 in DEVELOPMENT, while subject parcels #####- 1, #####- 2 and #####- 3 are in the SUBDIVISION of DEVELOPMENT, the Assessor noted in all four of her appraisals that the comparable sales occurred within the SUBDIVISION and ( X ) subdivisions which are “all intertwined in the AREA.” The Assessor stated that at the BOE hearings the BOE looked at prior and post lien date sales and adjusted all the lots in this area to \$\$\$\$.

The sales comparables from the Assessor’s appraisals are summarized below:

Address	lot size	sale date	sale amount	other
Comp 1 ADDRESS 4	0.31 acres	DATE	\$\$\$\$	1 mile north of parcel #####- 4 0.5 mile NE of parcels #####- 1, #####- 2 and #####- 3
Comp 2 ADDRESS 5	0.43 acres	DATE	\$\$\$\$	0.5 mile south of parcel #####- 4 1 mile south of parcels #####- 1, #####- 2 and #####- 3
Comp 3 ADDRESS 6	0.63 acres	DATE	\$\$\$\$	1 mile south of parcel #####- 4 1 mile south of parcels #####- 1, #####- 2 and #####- 3
Comp 4 ADDRESS 7	0.30 acres	DATE	\$\$\$\$	2 miles south of parcel #####- 4 2 miles south of parcels #####- 1, #####- 2 and #####- 3
Comp 5	0.28 acres	DATE	\$\$\$\$	.25 miles north of parcel

ADDRESS 8				#####- 4 1 mile south of parcels #####- 1, #####- 2 and #####- 3
Comp 6 ADDRESS 9	0.31 acres	DATE	\$\$\$\$\$	1 mile south of parcel #####- 4 1.5 mile south of parcels #####- 1, #####- 2 and #####- 3

Utilities are available to the sales comparables and the subject properties

The Property Owner provided four comparable sales which sold sometime in 2009, which is after the lien date of January 1, 2009 and therefore between buyers at a different time in the market. The Commission prefers comparable sales prior to the lien date as it is a better indication of the market and therefore “the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. (Utah Code Ann. 59-2-102(12).)

The Property Owner stated he has had the subject parcels for sale for two years. Although the Property Owner did not provide the MLS listings for his lots, during the hearing he indicated that he believed around January 1, 2009 he had reduced the asking price of parcels #####- 1, #####- 2 and #####- 3 to \$\$\$\$\$, and by the time he submitted the Tax Commission appeal in November 2009 he had reduced the asking price of same three parcels to \$\$\$\$\$. The Property Owner did not provide any cost estimates to install steel or concrete pylons, planning documents that would indicate the only structures that could be built on parcels #####- 1, #####- 2 and #####- 3 were those with pylons, or submit information on lots with similar topography near the subject properties where pylons were required to build structures on the lots, all of which may have supported the lots were less valuable.

In seeking a value lower than that established by the County BOE, the Property Owner has the burden of proof and must demonstrate not only an error in the valuation set by the County BOE, but must also provide an evidentiary basis to support a new value. The value set by the County BOE at the BOE hearing has the presumption of correctness at a Tax Commission Hearing. Reviewing the evidence presented, the Commission holds the Property Owner has not provided enough evidence to call into question the value of \$\$\$\$\$ set by the BOE for the subject properties. In addition, the County’s Appraisals support the BOE values.

#### DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds the value of subject parcels #####-1, #####- 2, #####- 3, and #####- 4 as of January 1, 2009 is \$\$\$\$ for each parcel. The County Auditor is hereby ordered to assure its records are in accordance with this decision. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request must include the Petitioner's name, address, and appeal number and be mailed to the address listed below:

Appeals Division  
Office of the Commission  
Utah State Tax Commission  
210 North 1950 West  
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

*DDP/ddp 09-3466.int*